



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date Amended: **06/14/05**

Bill No: **AB 14**

Tax: **Property**

Author: **Harman**

Related Bills:

BILL SUMMARY

This bill would prohibit an assessor from taking certain actions to divide an existing residential structure into a subdivision for property tax assessment purposes until after a subdivision final map or parcel map is recorded.

Summary of Amendments

The amendments since the previous analysis rewrote the provisions to its current form. See Comment 2.

ANALYSIS

Current Law

Revenue and Taxation Code Section 327 provides that the assessor may renumber or reletter parcels or prepare new map pages to show combinations or divisions of parcels.

Existing law in the Revenue and Taxation Code provides for the separate assessment of specified interests in real property under certain conditions. Those interests include:

- Condominium –Sections 2188.3 and 2188.6
- Planned development - Section 2188.5
- Community apartment project, stock cooperative, or limited equity housing cooperative - Section 2188.7

In addition, Section 2188.11 provides that the assessor may separately assess certain undivided interests as required by Sections 2821 et. seq. Revenue and Taxation Code Section 2821 allows any person filing an affidavit of interest to apply to the tax collector to have any parcel separately valued for the purpose of paying property taxes. Section 2823 requires the assessor to then determine the separate valuation for the parcel.

Proposed Law

This bill would add Section 327.5 to the Revenue and Taxation Code to prohibit an assessor from (1) assigning a parcel number or (2) preparing a separate assessment or a separate valuation to divide any existing residential structure into a subdivision, as defined in Section 66424 of the Government Code, until a subdivision final map or parcel map as described in Sections 66434 and 66445, respectively, of the Government Code has been recorded as required by law.

This bill would amend Section 2823 of the Revenue and Taxation Code to prohibit a separate valuation to divide any existing residential structure into a subdivision, until a subdivision final map or parcel map has been recorded as required by law.

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In practical application this would require an assessor to verify that a property owner that is requesting specified actions on an existing residential structure (e.g., an apartment complex, fourplex, or other multi-family dwelling) into individual assessment units (e.g. partition of the structure into individual units) has recorded a subdivision final map or parcel map on the subject property before it could renumber or reletter the parcel to show the division of the parcels. In addition, it would preclude the assessor from making a separate valuation for purposes of processing a request by a property owner or other interested party that has applied to the tax collector for a separate assessment as provided by Section 2821.

In General

Subdivision Map Act. The Senate Floor analysis of this bill provides a general overview of the Subdivision Map Act as it relates to this bill. It notes that under current law, any subdivision of property for the purpose of sale, lease, or finance is subject to the Subdivision Map Act. Subdivisions into five or more parcels require local government approval of both a tentative subdivision map, which is discretionary, subject to whatever conditions are established by local ordinance, and a final subdivision map, which is ministerial once all of the conditions of the tentative map have been fulfilled. Subdivisions into four or fewer parcels require local government approval of a parcel map, which is also discretionary. In either case, once a map is approved by the local government, the clerk of the council or board of supervisors transmits the map to the county recorder for recordation. The county recorder has ten days to accept or reject the map for recordation.

COMMENTS

1. **Sponsor and Purpose.** The City of Huntington Beach is sponsoring this measure to help insure that properties are legally and properly converted to condominiums. The City of Huntington Beach found that at least 122 apartment units in 26 separate buildings were converted to condominiums without the approval of the city. The individual units were then sold to unsuspecting homebuyers. One of the ways that this illegal conversion was facilitated was by obtaining individual parcel numbers on each unit from the county assessor. This bill is intended as an effort to prevent a property from being illegally converted to condominiums by making it more difficult for property owners to use the property tax assessment system for real property as a mechanism for obtaining separate assessor parcel numbers or valuations for the individual units.
2. **Summary of Amendments.** The June 14 amendments delete the current content of the bill and rephrases and restructures its provisions. These amendments address technical issues outlined in the prior analysis of this bill. Specifically, the amendments:
 - Limit the prohibitions placed on assessors to specific delineated actions. As introduced, it prohibited assessors from “taking any action” on the properties, which was too broad with respect to an assessor’s many duties for property tax purposes (e.g., change in ownership, new construction, or decline in value request, etc.).

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- Predicate the ability to proceed with the prohibited actions, once a subdivision final map or parcel map has been recorded. As introduced, the assessor could not proceed until a “relevant local authority” certified to the consent of the city or county to the conversion.
 - Modify the type of property to which the provisions apply. As introduced, it applied to a common interest development that consists of less than five units and is a conversion of an existing property. The bill now applies to “existing *residential* structures” (i.e., it would not apply to bare land or commercial, retail, industrial, or business park condos) and is not limited as to the number of units.
 - Relocate the added section of the Revenue and Taxation Code from Chapter 3 of Part 0.5 “**New Construction**” to Chapter 2 of Part 2 “**Legal Description of Lands for Assessment Purposes.**” A conversion of a property in and of itself is not considered new construction that would trigger a reassessment of the property.
3. **This bill is intended to create a safeguard against fraudulent condominium conversions by prohibiting an assessor from giving out new assessor parcel numbers or processing a request for a separate assessment.** Proponents of this measure claim that under current practices, if a grant deed is recorded indicating a sale of a portion of a property that is currently under a single assessor parcel number, an assessor will assign a new parcel number to the partitioned portion and is not required to verify that the division of the property was legal by requiring a recorded parcel or subdivision map.
4. **Administration.** Although this measure is written in terms of prohibitions *on the assessor*, proponents of this measure indicate that in terms of actual administration, it is intended to place a burden *on the property owner* to provide the assessor with a copy of the required map. In some cases it is possible that a partition of a property may not require a subdivision or parcel map to be recorded, in this instance, proponents state that the property owner could be referred to the local planning department to obtain written confirmation that a map is not required. Proponents claim that this bill would not place an excessive burden on assessors because (1) cities and counties approve subdivision and parcel maps, (2) the county recorder accepts or rejects maps, and (3) the subdivider would be required to produce a copy of the required recorded map to the assessor.
5. **Despite all efforts to prevent an illegal condo conversion, if an illegal conversion and a subsequent “sale” to a new property owner does occur, then how does this bill affect the subsequent assessment of the property for property tax purposes?** A change in ownership triggers a reassessment of the property sold for property tax purposes. Proponents note that if a sale was illegally made, then this bill would not preclude the assessor from reassessing the property to reflect the change in ownership. The reassessment could be billed under the original assessor parcel number to the former owner, and it would be the responsibility of the seller and buyer to prorate the amount of taxes owing by each party.

COST ESTIMATE

With respect to administration, the Board would incur insignificant costs in informing and advising local county assessors, the public, and staff of the law changes.

REVENUE ESTIMATE

This bill has no revenue impact.

Analysis prepared by:	Rose Marie Kinnee	916-445-6777	06/29/05
Contact:	Margaret S. Shedd	916-322-2376	
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